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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Peter F Cloeren

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EXAMINER

WOLLSCHLAGER, JEFFREY MICHAEL

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

02/10/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/512,143	Applicant(s) CLOEREN, PETER F	
	Examiner JEFFREY WOLLSCHLAGER	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 10-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/21/04</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION***Election/Restrictions***

Applicant's election without traverse of Group I, claims 1-9, in the reply filed on November 20, 2008 is acknowledged. Claims 10-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-9 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9 and 21-30 of copending Application No.

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10/935,101. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims are merely broader versions of the copending claims. Therefore, they are not patentably distinct therefrom, since they are effectively anticipated by the copending claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Ramanathan et al. (US 5,269,995).

Regarding claim 1, Ramanathan et al. teaches a method (i.e., figs. 1-5; cols. 8-12) for producing a shaped layered composite comprising an interface defined by melt- lamination of overlapping flow streams, wherein said interface lies generally in an x-z plane of an x-y-z coordinate system in which the x-axis defines a transverse dimension of said interface and the y-axis extends generally perpendicularly through said interface, said method comprising with a first shaped flow stream (i.e., stream in any one of conduits 40, 42, 43, 44) and a second shaped flow stream (i.e., stream in any other of conduits 40, 42, 43, 44) each having a main flow direction generally in the z- direction, and said first shaped flow stream and said second shaped flow stream being suitably- shaped for melt-lamination, changing the relative orientation of said first shaped flow stream to said second shaped flow stream from a generally side- by-

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side orientation along said x-axis to a generally stacked orientation in which said first shaped flow stream defines a first plane and said second shaped flow stream defines a second plane along said y-axis (i.e., fig. 2), thereafter forming said interface of said shaped layered composite by melt-laminating said first shaped flow stream and said second shaped flow stream, wherein said layered composite is formed independent of division of a layered precursor stream (i.e., note feed slots 48, 50, 52, 54, 58, 60 which are independent of stream division; col. 11, lines 35-38), and thereafter dimensionally increasing said interface along said x-axis to form a multilayered composite product of greater width than thickness (i.e., occurs in die 22), wherein said interface is generally parallel to said width (i.e., fig. 1).

As to claim 2, Ramanathan teaches the first shaped flow stream and said second shaped flow stream are co-planar to one another in said generally side-by-side orientation (i.e., fig. 2).

As to claim 3, Ramanathan teaches the first shaped flow stream and said second shaped flow stream are in different planes from one another in said generally side-by-side orientation (i.e., in fig. 2, note that after being in co-planar side-by-side orientation, the streams are then in different planes from one another in generally side-by-side orientation).

As to claims 4-8, Ramanathan teaches the first shaped flow stream and second shaped flow stream are layered streams, and said first shaped flow stream-differs from said second shaped flow stream in layer sequencing, but the streams merged to form said first shaped flow stream are of the same composition as the streams merged to form said second shaped flow stream (i.e., if the same material is equally added to feed slots 58 and 60) wherein said first shaped flow stream and said second shaped flow stream are layered streams, and said first shaped flow stream differs from said second shaped flow stream in layer sequencing, and at least one of the streams merged to form said first shaped flow stream differs in composition

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from each of the streams merged to form said second shaped flow stream (i.e., if different materials are added to feed slots 58, 60), wherein said first shaped stream and said second shaped flow stream are layered streams, and said first shaped flow stream and said second shaped flow stream have identical layer sequencing (if the feed slots are not used, or if the same materials are equally added to feed slots 48, 50, 52, 54 and feed slots 58 and 60 are not used); wherein said first shaped stream flow stream or said second shaped flow stream is a layered stream and during the step of forming said first shaped stream or said second shaped stream, there is a substantial difference in the volumetric or mass flow rates of at least two of the streams being merged (i.e., col. 11, line 57, to col. 12, line 29); wherein during the step of forming said shaped layered composite, there is a substantial difference in the volumetric or mass flow rate of said first shaped flow stream compared to said second shaped flow stream (i.e., col. 11, line 57, to col. 12, line 29);

As to claim 9, Ramanathan teaches the first shaped flow stream is a layered stream comprising at least one interface having a width w , and at least two of the streams merged to form first shaped flow stream have said width w , and wherein said second shaped flow stream is a layered stream comprising at least one interface having a width w' , and at least two of the streams merged to form said second shaped flow stream have said width w' (i.e., fig. 2).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY WOLLSCHLAGER whose telephone number is (571)272-8937. The examiner can normally be reached on Monday - Thursday 6:45 - 4:15, alternating Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeff Wollschlager/
Examiner, Art Unit 1791
February 10, 2009